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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

A, PHI DIEU TRAN

ART UNIT	PAPER NUMBER
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3637

DATE MAILED: 06/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/920,855

Applicant(s)

STANCHFIELD, OLIVER O.

Examiner

Phi D. A

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 March 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3,5-7,9-15,27,28,30,32-34,36,37,39-45,47,49 and 50 is/are pending in the application.
- 4a) Of the above claim(s) 8 and 48 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3,5-11,13-15,27,28,30,32-34,36,37,39-45,47,49 and 50 is/are rejected.
- 7) ☒ Claim(s) 12 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. Newly submitted claims 8, 48 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: the claims are to figure 2, non-elected

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claim 48 is withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Also, applicant's attempt to switch to the non-elected specie of figure 2 for prosecution is considered improper. Applicant cannot change the elected specie during prosecution. The elected specie for prosecution has always been figure 1, and the claims associated thereof.

The claim 8 is also added to the list of restricted claim above as applicant has clarified that the claim belongs to the specie non-restricted. Although the claim was considered broad to be able to read on the specie elected, applicant's comments clearly set forth the claim 8 belonging to the non-elected specie of figure 2, and thus should be restricted also.

2. The indicated allowability of claim 13 is withdrawn in view of the newly discovered reference(s) to Johnson. Rejections based on the newly cited reference(s) follow.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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4. Claim 50 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claim is unclear and is confusing. The molding in claim 1 has multiple surfaces. It is unclear what " surface " is claimed here.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-3, 5, 7, 9-11, 13-15, 27-28, 30, 32, 34, 36-37, 39-45, 47, 49-50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Margarit (5979132) in view of Johnson (3200547) and Hickler (2456006).

Margarita shows a molding having a longitudinal axis, the molding comprising a core formed from compressed wood particles, the molding having a generally planar floor engaging surface (the surface engaging the floor 3), a wall engaging surface (the surface engaging the wall (2), the surfaces positioned substantially perpendicular to each other, a surface formed of a décor sheet (col 2 line 5), the wall engaging surface defines apertures (for passing of fasteners 8) therethrough to allow a connector (fastener) to pass through the wall engaging surface therethrough, the connector fastening the molding to the corner when the molding is in the installed position, an intermediate surface (the curving surface at the bottom of the molding)

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connecting the wall surface and the floor engaging surface, a face on the molding and positioned to face outwardly from the corner, the face comprising at least one curved section (the surface at the top of figure 2), the molding having a **generally** uniform cross section at planes transverse to the longitudinal axis, the core being of high density fiberboard, the face comprising at least one flat section, the face comprising at least one planar section.

Margarita does not show a surface formed of a thermosetting resin sheet, a preformed resilient pad coupled to the floor engaging surface, the pad formed of a material selected from the group consisting of a natural or synthetic rubber, compressed open cell foamed plastics, closed cell foamed plastics, elastomer polymer materials and hollow core polymeric material, the pad resiliently creates a substantially moisture tight seal when installed.

Johnson (figure 3) shows preformed resilient, conformable foamed pads (16, 17) for mounting and sealing the joint between the floor and the wall, the pad being resilient and formed of a elastomer polymer material, the pad being distal the front edge (14) of the floor engaging surface, the front edge being distal the corner.

Hickler shows a structure laminated on an outer surface with a thermosetting resin and décor sheet (col 2 lines 21-24, lines 38-43), the décor sheet being paper.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Margarita's structure to show a resilient preformed pad coupled to the floating floor engaging surface, the pad formed of a material selected from the group consisting of a natural or synthetic rubber, compressed open cell foamed plastics, closed cell foamed plastics, elastomer polymer materials and hollow core polymeric material, the pad resiliently creates a substantially moisture tight seal when installed as taught by Johnson, a surface formed

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of a thermosetting resin sheet because having a thermosetting resin sheet with the paper would enable the fast curing and bonding of the paper to the underlying structure as taught by Hickler, and having a preformed pad formed of elastic polymer material would enable the proper sealing of the floor engaging surface to the floor as taught by Johnson.

Per claim 2, Margarit as modified shows all the claimed limitations except for an adhesive positioned on the pad and configured to engage the floor when the molding is in the installed position.

Johnson further shows adhesive (19) on the pad (16, 17) to enable the bonding of the pad to the floor and the wall in the installed position.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Margarit's modified structure to show an adhesive positioned on the pad and configured to engage the floor when the molding is in the installed position because it would allow for the easy bonding/attachment of the pad to the floor/wall as taught by Johnson.

Per claims 9, 11, 44-45, 47, 49-50, Margarit as modified shows the pad being positioned distal a front edge of the floating floor engaging surface, the front edge of the floating floor engaging surface is distal the corner, the molding having a **generally** uniform cross section at planes transverse to the longitudinal axis, the pad being formed of foamed plastic, the décor sheet comprising at least one of a color and a pattern complementary to an upper surface of the floating floor (inherently so), the décor sheet of the molding is complementary to the decorative surface of the surface element, the pad being closed cell or open cell foamed plastic.

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Per claim 13, Margarit as modified shows all the claimed limitations. The claimed method steps of installing the molding would have been the obvious method steps of installing Margarit's modified structure.

Per claim 14, Margarit as modified shows all the claimed limitations except for the pad including a removable film covers the adhesive.

Johnson further shows the pad (16, 17) including a removable film (20) covering the adhesive (19).

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Margarit's modified structure to show the pad including a removable film covers the adhesive as taught by Johnson because it would protect the adhesive surface before use, and is well known in the art.

Per claims 27-28, 30, 32, 34, 41-43 Margarit as modified shows all the claimed limitations. The claimed method steps would have been the obvious method steps of installing Margarit's modified structure.

3. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Margarit (5979132) in view of Johnson (3200547) and Hickler (2456006) as applied to claim 5 above and further in view of Stillman (3216164).

Margarit as modified shows all the claimed limitations except for the intermediate surface being substantially planar and angled so that the wall, floor and intermediate wall forming a generally triangular shape in a plane transverse to the longitudinal axis.

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Stillman shows the intermediate surface (surface between rib 18 and surface 24) being substantially planar and angled so that the wall (24), floor (19, figure 2) and intermediate wall surface forming a generally triangular shape in a plane transverse to the longitudinal axis.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Margarit's modified structure to show the intermediate surface being substantially planar and angled so that the wall, floor and intermediate wall forming a generally triangular shape in a plane transverse to the longitudinal axis because the angle allows for the proper sealing of the molding to the floor and wall as taught by Stillman.

4. Claim 33 is rejected under 35 U.S.C. 103(a) as being unpatentable over Margarit (5979132) in view of Johnson (3200547) and Hickler (2456006) as applied to claim 32 above and further in view of Rusincovitch et al (5866220).

Margarit as modified shows all the claimed limitations except for the sealant being a silicone sealant.

Rusincovitch et al discloses a sealant (18) being a silicone sealant.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Margarit's modified structure to show the sealant being a silicone sealant as taught by Rusincovitch et al because silicone sealant would provide for the easy adhering of the wall covering to the wall as it is tacky, and examiner takes Official Notice of the well known use of silicone for sealant in environment where moisture/water is expected as is demonstrated by many available sealing products made of silicone to be used at sink, bathtub, and water sealing areas in stores like Homedepot, Lowes, Walmart... etc....

Allowable Subject Matter

5. Claim 12 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

6. The following is a statement of reasons for the indication of allowable subject matter: prior art does not provide sufficient motivation to modify Margarit's modified structure to show the pad being hollow.

Response to Arguments

7. Applicant's arguments with respect to claims 1-3, 5-11, 13-15, 27-28, 30, 32-34, 36-37, 39-45, 47, 49-50 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art shows different corner molding device.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phi D A whose telephone number is 571-272-6864. The examiner can normally be reached on Monday-Tuesday, Thursday and Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 571-272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Phi Dieu Tran A

5/15/06